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Written Testimony before the Human Services Committee

March 17, 2009

S. B. No. 1085 (RAISED) AN ACT CONCERNING HOMEMAKER AND COMPANION AGENCIES AND AUDITS FOR VENDOR FRAUD

The Department is opposed to Senate Bill No. 1085 for the following reasons:

In response to a very similar proposed bill in 2005, PA 05-195 was crafted with the assistance of the bill's sponsors and put into law. The Public Act addressed both the providers concerns with the audit process and the Department's federally mandated requirement to audit the billions of dollars paid to providers. Among other things, the Public Act provided for limits on the use of extrapolation and formalized a review process for providers who felt aggrieved by the audit process. The reforms enacted by the Public Act have been successful and the majority of the bill's sponsors have been satisfied with the changes.

Implementation of this bill will provide a negative incentive to those individuals and corporations that hunger to take inappropriate advantage of the billions of dollars paid out by the Connecticut Medical Assistance Programs. This proposed bill effectively cuts the heart out of the program integrity function of this Department and will actually promote vendor fraud.

Moreover, this bill will place the Department in violation of federal law. In a recent Connecticut Supreme Court decision; Goldstar Medical Services, Inc., et al. v. Department of Social Services, the Supreme Court Justices unanimously found that the Department's auditing method and use of sampling and extrapolation were not only appropriate, they were required by federal law.

This bill is extremely costly. First, because the Department will be forced to violate federal law, the entire Federal Financial Participation (FFP) funding of the Medicaid program is jeopardized. The state could lose \$1.8 billion in FFP. Second, since this bill affects the audits of all providers, it will cost the Department \$12 million in audit recoveries and cost avoidance, annually. Third, as this bill will embolden fraudsters and greatly impede the Department's ability to identify vendor fraud, it will cost the Department millions each year in undetected fraudulent claims.

In addition to gutting the Department's program integrity function; this bill expands funding to the homemaker and companion agencies by establishing a transportation fee of no less than \$8 for each trip away from the client's home. This backdoor rate increase will cost the Department

an estimated \$1.5 million per year. The Department opposes this funding mechanism and spending increase.

Given the concerns noted above, the Department strongly opposes this bill.

S. B. No. 1086 (RAISED) AN ACT CONCERNING THE CREDITING OF SOCIAL SECURITY DEPENDENT BENEFITS.

This bill purports to settle a longstanding issue as to what effect, if any, the receipt of social security dependency benefits should have on an existing support order. This bill proposes to credit the amount of such benefits against the ongoing support order or arrearage. While the solution sounds fair, the approach is problematic for the child support program. An order entered in the child support automated system is presently satisfied by payments against the order. The bill would require partial order satisfaction by a payment to a third party that would not be going through the automated system, and therefore could not be tracked or audited. The provision requiring Support Enforcement Services (SES) to review the order when it receives information that an obligor is receiving disability benefits or SSI is unnecessary, as the requirement already exists for an SES review when there is knowledge of a substantial change of circumstances. The provisions requiring SES notifications and advisements to custodial parties who may qualify for dependency benefits are also administratively burdensome, and would probably be ineffective in achieving their objective, since no penalties for noncooperation are specified.

S. B. No. 1087 (RAISED) AN ACT CONCERNING CONNPACE PRESCRIPTION DRUG REVIEWS

Given the Governor's budget recommendations that specifically impact the ConnPACE program, we cannot support a two year pilot program at this time. Additionally, there appears to be a cost associated with this project to reimburse pharmacists for their services. Given the uncertainty of our state budget, dollars may not be readily available for such an undertaking.

S. B. No. 1112 (RAISED) AN ACT MAXIMIZING THE FEDERAL STIMULUS FUNDING.

DSS understands the desire of the Committee to receive updates on our progress in accessing federal funds under the Stimulus Bill and we are prepared to do so. However, no one should be misled that the funds that we anticipate have not already been accounted for in the Governor's budget. There is not a new pool of dollars available for program expansions.

With regard to the community health centers, the centers have their own grant opportunities in the ARRA and we will work with them, as we will with all providers, to develop an Electronic Health Record (EHR). However, as stated above, we do not anticipate that there will be opportunities to develop a new delivery system with funds from the Stimulus Bill.

S. B. No. 1113 (RAISED) AN ACT CONCERNING MEDICAID.

Section 1 of the bill directs the department to apply for a home and community based waiver for persons with HIV by April 1, 2009. While we understand the frustration of members of the committee with the lack of movement on the HIV waiver, the department cannot meet the deadline suggested in the bill. A full draft of a 1915 (c) waiver, with the necessary cost effectiveness analysis will take months to develop, notwithstanding the requirements for public comment and legislative review as described in Section 17b-8 of the General Statutes.

Regarding section 2 of the bill, we have been reporting to the Council on the Charter Oak and Primary CareCase Management programs for several months now and have no objection to formalizing this arrangement.

We continue to question the need for the provision in section 3, which would require the non-emergency medical transportation brokers to disclose the source of payment at the point when the service is requested. Identifying that the ride is for a Medicaid client could be seen as a violation of the client's confidentiality and could present an obstacle to service delivery.

Finally we are opposed to the removal of the requirement to obtain prior authorization for non-emergency ambulance services. In a time of economic hardship and budget deficits, it sends the wrong message to reduce oversight of utilization.

The department cannot support this legislation.

S. B. No. 1122 (RAISED) AN ACT CONCERNING CHANGES TO THE HUMAN SERVICES STATUTES.

The provisions in this bill would dramatically increase rates for home health agencies and the providers of home and community based services. These increases are not included in the Governor's budget and must be deferred until economic conditions improve.

The bill also calls for Medicaid reimbursement for telemonitoring services provided by home health agencies. This idea has merit and was the subject of a joint application filed by the department and the Home Care Association for a Medicaid Transformation grant, which was ultimately denied. The Governor's budget reflects some modest savings associated with the coverage of telemonitoring services provided by home health agencies for patients with congestive heart failure or chronic obstructive pulmonary disease who meet certain medical criteria. To ensure that the additional costs of equipment rental, 24-hour monitoring, etc. do not exceed the savings resulting from reduced skilled nursing visits and improved disease management, it is important that both costs and savings be tracked over a period of time. Thus, we expect to perform an evaluation at the end of a two year demonstration period to confirm the program's cost effectiveness. We do not support the proposed language as we feel that the program should be piloted over a two year period.

Section 5 diverts revenue and cannot be supported given the current economic climate.

We are opposed to the proposed changes to Section 7 of 17b-94 that would remove our ability to lien causes of actions (lawsuits) filed by clients of our various programs. This would have a large negative impact on the state budget, since last year alone, the Department of Administrative Services collected over \$18 million from these settlements. In addition, it runs counter to the premise of many of our programs, that they are loans that can and should be repaid when the client's circumstances improve.

Given these concerns, the department opposes this initiative at this time due to the current budget difficulties.

H. B. No. 6639 (RAISED) AN ACT CONCERNING COMMUNITY ACTION AGENCIES.

Raised Bill 6639 directs the Commissioner to create a plan in conjunction with the Community Action Agencies (CAA's) to assist their clients in accessing emergency services such as food, shelter and health care. The department opposes this bill because the CAA's are already positioned to provide such services and are presently providing them. It is already part of the mission of the CAA network to link low-income individuals to the services that they need by coordinating a wide range of services to meet the needs of low-income families and individuals, so that these services have a measurable impact on the reduction of poverty in the community and in helping families and individuals to achieve self-sufficiency.

It is particularly important during these difficult financial times that the limited resources of both DSS and the CAA's are not duplicated or diverted inefficiently, as the bill proposes.

H. B. No. 6668 (RAISED) AN ACT PROVIDING QUALITY CARE, FINANCIAL OVERSIGHT AND NURSING HOME FUNDING REFORM.

This bill requires the Long-Term Care Planning Committee to submit a plan to the legislative committees of cognizance by January 1, 2010 concerning implementation, by July 1, 2010, of preadmission screening to nursing facilities, minimum staffing levels and various Medicaid rate setting changes. The bill also establishes a Personal Care Attendant Quality Home Care Workforce Council (PCAQHCWC).

There currently is an exhaustive system in place to have trained professionals do evaluations of persons seeking entrance to a nursing home. Embedded in that evaluation is the assessment of risk of the applicant of hurting him/herself or others. That assessment is currently done by behavioral health professionals. In the Governor's budget, there is included a recommendation to develop an enhanced screening system that would effectively assess the appropriateness of nursing home placement and consider diversion options based on the individual's needs. Consequently, between the current process and the enhancements of the new process proposed in the Governor's budget, this portion of the bill appears to be duplicative and unnecessary.

While the bill only requires development of a plan, preliminary cost estimates indicate that the proposed minimum nursing home staffing requirements and Medicaid rate setting changes (95% of Direct and Indirect cost, Disproportionate Share payments) included in Bill 6668 would

increase SFY 2011 Medicaid program expenditures by at least \$130 million. Given the potential costs of implementation and the department's limited resources, we cannot support this language.

